

REMARKS

This paper is responsive to the Examiner's Final Office Action of March 7, 2008. Applicants have hereby amended the Title, Abstract, and Claims 2 and 17, canceled Claims 21-36, and added new Claims 37-41. Thus, Claims 2, 13-20 and 37-41 are presently pending in this application. Reconsideration of the application in view of the foregoing amendments and following remarks is respectfully requested.

The specific changes to the title, abstract and any amended claims are shown by strikethrough or double bracketing for any deletions, and underlining for any insertions.

Amendments to the Title and Abstract

As shown above, the Title and Abstract of the Disclosure have been amended. Support for these amendments can be found in the Application as originally filed. No new matter has been introduced. Accordingly, Applicants request entry of these amendments.

Election/Restrictions

The Examiner restricted Claims 21-36, which were added by Applicants in the Office Action Response of December 20, 2007, as being directed to an invention that is independent or distinct from the invention originally claimed. As such, the Examiner withdrew Claims 21-36 from consideration as being directed to a non-elected invention.

Applicants hereby affirm the election of Claims 2 and 13-20 without traverse. Accordingly, as noted above, Applicants have canceled Claims 21-36. Applicants reserve the right to pursue these canceled claims in a divisional application and/or at a later date.

Claims 2 and 13-20 are Patentable Over the Applied Combination

The Examiner rejected Claims 2 and 13-20 under 35 U.S.C. § 103(a) as being obvious in view of the combination of U.S. Patent No. 6,544,249 B1 to Yu et al. ("Yu") and U.S. Patent No. 6,626,858 B2 to Lynch et al. ("Lynch").

Though Applicants respectfully traverse these rejections and the Examiner's characterization of the cited references, independent Claim 2 has been amended as shown above and as noted in the above Interview Summary, to advance prosecution. Applicants reserve the right to pursue any of the prior versions of the claims in one or more continuing applications and/or at a later date.

As also noted above, the preamble of Claim 2 has been amended. In addition, a few other amendments have been made to Claims 2 and 17 that are generally directed to providing proper antecedent basis and should not alter the scope of the claim.

Yu is directed to a hollow tube comprising a drainage canal (15) with an outlet opening at the distal end (12) as shown in FIG. 1. The rearward pointing barbs are located proximally of the outlet opening (as shown in the drawings) and are to resist unwanted rearward movement following implantation (see column 6, lines approx. 13-15).

Turning now to the specific claims, Claim 2 is directed to an implant for treating an ocular disorder and recites, *inter alia* (emphasis added):

an anchoring member extending from the implant and
being **disposed distally of the longitudinally spaced openings**.

Even if it were somehow possible to modify Yu to add the openings disclosed by Lynch, as asserted in the Office Action, one of ordinary skill in the art would place these openings distally relative to the barb(s) disclosed by Yu. Furthermore, as noted in the Interview Summary, Applicants' claimed implant is configured to anchor in tissue (see, for example, FIGS. 3 and 9), and the anchoring generally arrests both forward and rearward movement of the implant, while Yu discloses barbs to resist rearward movement and a proximal end spaced from the barbs to resist forward movement. Thus, the applied combination of Yu and Lynch fails to teach or suggest Applicants' claimed implant.

Claims 13-20 depend from Claim 2 and are patentable for at least the same reasons that Claim 2 is patentable, and because of the unique combination of features recited therein. Moreover, these claims define over the prior art, since the combination of features recited therein are not found in an individual prior art reference, or rendered obvious by a combination of prior art references.

Accordingly, Applicants respectfully submit that Claims 2 and 13-20 are in condition for allowance.

New Claims

Applicants have added new Claims 37-41 to vary further the scope of protection. These claims are supported by the Application as originally filed, and no new matter has been introduced.

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Claims 37-41 depend from Claim 2 and are patentable for at least the same reasons that Claim 2 is patentable, and because of the unique combination of features recited therein. Moreover, the new claims define over the prior art, since the combination of features recited therein are not found in an individual prior art reference, or rendered obvious by a combination of prior art references.

Accordingly, Applicants respectfully submit that Claims 37-41 are in condition for allowance.

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicants are not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.

Co-Pending Applications of Assignee

Applicants wish to draw the Examiner's attention to the following co-pending applications of the present application's assignee.

Serial Number	Title	Filed	Attorney Docket No.
10/889,254	OCULAR IMPLANT WITH ANCHOR AND THERAPEUTIC AGENT	July 12, 2004	GLAUKO.1C2C3
10/706,300	OCULAR IMPLANT WITH THERAPEUTIC AGENTS AND METHODS THEREOF	November 12, 2003	GLAUKO.1C3CP1
11/126,868	INJECTABLE GEL IMPLANT FOR GLAUCOMA TREATMENT	May 11, 2005	GLAUKO.1C3CP2
11/123,443	GLAUCOMA IMPLANT WITH MULTIPLE OPENINGS	May 6, 2005	GLAUKO.1C4C1

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Serial Number	Title	Filed	Attorney Docket No.
11/841,967	THERAPEUTIC SHUNT DEVICE AND METHOD FOR TREATING GLAUCOMA	August 20, 2007	GLAUKO.1C4C10
11/836,109	OCULAR IMPLANT WITH ANCHORS AND METHODS THEREOF	August 8, 2007	GLAUKO.1CP1C1C
11/121,584	IMPLANTS FOR TREATING OCULAR DISORDERS	May 4, 2005	GLAUKO.005C1C1
11/598,542	IMPLANT AND METHODS THEREOF FOR TREATMENT OF OCULAR DISORDERS	November 13, 2006	GLAUKO.011C1
11/084,314	INJECTABLE GLAUCOMA IMPLANTS WITH MULTIPLE OPENINGS	March 18, 2005	GLAUKO.11CP2CP1
11/083,713	OCULAR IMPLANTS WITH ANCHORS AND METHODS THEREOF	March 18, 2005	GLAUKO.011CP3
11/860,785	OCULAR IMPLANT WITH DOUBLE ANCHOR MECHANISM	September 25, 2007	GLAUKO.013C1DV1
11/332,746	FLUID INFUSION METHODS FOR OCULAR DISORDER TREATMENT	January 12, 2006	GLAUKO.020C1
10/860,785	COIL IMPLANT FOR GLAUCOMA TREATMENT	June 2, 2004	GLAUKO.051A
11/938,238	UVEOSCLERAL SHUNT AND METHODS FOR IMPLANTING SAME	November 9, 2007	GLAUKO.099A

Conclusion

Applicants respectfully submit that the claims are in condition for allowance in view of the above remarks. Any remarks in support of patentability of one claim, however, should not be imputed to any other claim, even if similar terminology is used. Additionally, any remarks referring to only a portion of a claim should not be understood to base patentability on that portion; rather, patentability must rest on each claim taken as a whole. Applicants respectfully traverse each of the Examiner's rejections and each of the Examiner's assertions regarding what the prior art shows or teaches, even if not expressly discussed herein. Although amendments may have been made, no acquiescence or estoppel is or should be implied thereby. Rather, the

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amendments are made only to expedite prosecution of the present application, and without prejudice to presentation or assertion, in the future, of claims on the subject matter affected thereby. Applicants also have not presented arguments concerning whether the applied references can be properly combined in view of, among other things, the clearly missing elements noted above, and Applicants reserve the right to later contest whether a proper reason exists to combine these references as well as to later present facts and arguments supporting the non-obviousness of the claimed subject matter.

Applicants have made a good faith effort to respond to the outstanding Office Action. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is cordially invited to contact Applicants' attorney, at the telephone number below, to resolve any such issues promptly. Also, please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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